

**IN THE UNITED STATES DISTRICT COURT  
THE EASTERN DISTRICT OF NEW YORK  
BROOKLYN DIVISION**

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**VERMEER MANUFACTURING COMPANY**

*Plaintiff,*

v.

**Case No: 1:25-cv-00239-LDH-CHK**

**AEROCINE VENTURES INC.**

*Defendant.*

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**EXHIBIT 1—DECLARATION OF CASEY SCOTT MCKAY IN SUPPORT OF  
DEFENDANT’S MOTION TO DISMISS**

Casey McKay, pursuant to 28 U.S.C. § 1746 hereby declares as follows:

1. I am over 18 years of age, of sound mind, and otherwise competent to make this Declaration. The evidence set out in the foregoing Declaration is based on my personal knowledge.
2. I am a citizen of Washington, DC.
3. I am counsel of record for Defendant AeroCine Ventures Inc.
4. Attached as Exhibit 2 is a true and correct copy of AeroCine’s U.S. Trademark Registration No. 5,927,317 for the term VERMEER, obtained from the USPTO’s Trademark Status & Document Retrieval (“TSDR”) system.

5. Attached as Exhibit 3 is a true and correct copy of an Internet Archive Entry of Defendant's Stylized "V" Logo (v1) on getvermeer.com on 7 July 2018 (last accessed 25 September 2025), *available at*  
<https://web.archive.org/web/20180707152654/http://www.getvermeer.com/>.
6. Attached as Exhibit 4 is a true and correct copy of an Internet Archive Entry of Defendant's Stylized "V" Logo (v2) on getvermeer.com on 26 October 2021 (last accessed 25 September 2025), *available at*  
<https://web.archive.org/web/20211026031933/https://www.getvermeer.com/>.
7. Attached as Exhibit 5 is a true and correct copy of the application and specimen for Plaintiff's U.S. Trademark Registration No. 2,593,606 for the term VERMEER (filed April 5, 2000; registered July 16, 2002), obtained from the USPTO TSDR system.
8. Attached as Exhibit 6 is a true and correct copy of the application and specimen of use for Plaintiff's U.S. Trademark Registration No. 3,346,180 for a stylized "V" logo (filed June 15, 2006; registered November 27, 2007), obtained from the USPTO TSDR system.
9. Attached as Exhibit 7 is a true and correct copy of the application for Plaintiff's U.S. Trademark Registration No. 7,484,356 for the term VERMEER (filed March 25, 2022; registered August 27, 2024), obtained from the USPTO TSDR system.
10. Attached as Exhibit 8 is a true and correct copy of Plaintiff's U.S. Registration No. 7,295,357 for a stylized "V" logo (filed March 25, 2022; registered January 30, 2024), obtained from the USPTO TSDR system.

11. Attached as Exhibit 9 is a true and correct copy of Plaintiff's U.S. Registration No. 1,771,115 for the term VERMEER (filed September 28, 1992; registered May 18, 1993), obtained from the USPTO TSDR system.
12. Attached as Exhibit 10 is a true and correct copy of Plaintiff's U.S. Registration No. 4,752,754 for a stylized "V" logo (filed May 30, 2014; registered June 16, 2015), obtained from the USPTO TSDR system.
13. Attached as Exhibit 11 is a true and correct copy of the application for Plaintiff's U.S. Application Serial No. 97/757,537 for the term VERMEERONE (filed January 17, 2023), obtained from the USPTO TSDR system.
14. Attached as Exhibit 12 is a true and correct copy of the Office Action rejecting Plaintiff's U.S. Trademark Application Serial No. 97/757,537 for Class 009 goods (issued August 12, 2025), obtained from the USPTO TSDR system.
15. Attached as Exhibit 13 is a true and correct copy of Plaintiff's Petition for Cancellation filed with the USPTO against AeroCine's Registration No. 5,927,317, obtained from the USPTO TTAB system.
16. Attached as Exhibit 14 is a true and correct copy of a screenshot of Vermeer's Projects Suite Product Page from Vermeer's website, which I accessed on 25 September 2025, which is available at <https://store.vermeer.com/navigation-items/products/vermeer-projects>.

17. Attached as Exhibit 15 is a true and correct copy of a screenshot of Vermeer's VermeerOne Platform product page from Vermeer's website, which I accessed on 25 September 2025, which is available at <https://www.vermeer.com/na/digital-tools/vermeerone-platform>.
18. Attached as Exhibit 16 is a true and correct copy of a screenshot of Vermeer's DigiTrak Product Page from Vermeer's website, which I accessed on 25 September 2025, which is <https://www.vermeerallroads.com/complementary-equipment/digital-control/>.
19. Attached as Exhibit 17 is a true and correct copy of an Internet Archive Entry for Press Release with Stylized "V" Logo (v2) and Product Description from 7 December 2021, *available at* <https://web.archive.org/web/20211207151102/https://www.getvermeer.com/news/vermeer-two-sbir-phaseii-airforce> (last accessed 25 September 2025).
20. AeroCine has used two versions of stylized "V" logos in connection with its VERMEER mark. The first version was used beginning in 2018 as stated in the Amended Complaint and as shown in the Internet Archive Screenshot in Exhibit 3; the second version has been in use since at least 26 October 2021, as seen in the Internet Archive Screenshot attached as Exhibit 4.<sup>1</sup>
21. AeroCine's augmented reality drone navigation software is a "mixed reality and artificial intelligence enabled mission planning and visualization tool. . . . that allows an operator to

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<sup>1</sup> (Ex. 3, Internet Archive Entry of Defendant's Stylized "V" Logo (v1) on [getvermeer.com](https://www.getvermeer.com) on 7 July 2018 (last accessed 25 September 2025), *available at* <https://web.archive.org/web/20180707152654/http://www.getvermeer.com/>; Ex. 4, Internet Archive Entry of Defendant's Stylized "V" Logo (v2) on [getvermeer.com](https://www.getvermeer.com) on 26 October 2021 (last accessed 25 September 2025), *available at* <https://web.archive.org/web/20211026031933/https://www.getvermeer.com/>; Ex. 17, Internet Archive Entry for Press Release with Stylized "V" Logo (v2) and Product Description from 7 December 2021, *available at* <https://web.archive.org/web/20211207151102/https://www.getvermeer.com/news/vermeer-two-sbir-phaseii-airforce> (last accessed 25 September 2025)).

easily, through the use of intuitive gestures and 3D visualization, conduct mission rehearsals for autonomous systems in a mixed reality environment. . . . [and] allows for the autonomous execution of those missions as well as the 3D visualization of the sensory data generated from the mission.”<sup>2</sup> It provides real-time computer vision and navigation assistance for aerial drone operations, utilizing augmented reality overlays, three-dimensional flight algorithms, sensor fusion, and real-time visual data processing for drones operating in three-dimensional airspace.<sup>3</sup>

22. AeroCine markets its software through its website, defense industry channels, and specialized aerospace trade shows to sophisticated customers including military agencies, aerospace companies, and government contractors who require technical training and expertise and often security clearances.
23. AeroCine’s customers typically conduct extensive due diligence before purchasing specialized software solutions due to the technical nature of augmented reality drone navigation software and the sophisticated requirements of military and aerospace applications.
24. AeroCine’s software targets a niche market of sophisticated technical users who require advanced capabilities for aerial operations involving real-time processing of complex spatial data.

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<sup>2</sup> (See Ex. 17, Internet Archive Entry for Press Release with Stylized “V” Logo (v2) and Product Description from 7 December 2021, *available at* <https://web.archive.org/web/20211207151102/https://www.getvermeer.com/news/vermeer-two-sbir-phaseii-airforce> (last accessed 25 September 2025)).

<sup>3</sup> (See *id.*).

25. AeroCine's augmented reality drone navigation software requires expertise in computer vision, artificial intelligence, sensor fusion, and advanced flight algorithms—cutting-edge capabilities designed specifically for aerial operations requiring split-second processing of complex three-dimensional spatial data.
26. The parties operate through completely separate trade channels with no common retailers or distributors. AeroCine has never sold its products through farming, construction, or heavy equipment distribution networks, and, according to the Amended Complaint, Vermeer has never sold products through defense industry channels or aerospace trade shows.
27. The parties' products are offered at different price points reflecting their distinct market positions and customer bases, with AeroCine's specialized augmented reality software targeting a niche market of sophisticated technical users while Vermeer's software serves as ancillary tools supporting its primary business of manufacturing and selling industrial equipment for farming, construction, and mining.
28. Based on my knowledge of AeroCine's business operations and Vermeer's claims in the Amended Complaint, AeroCine has never attended any trade shows that Vermeer has also attended, and the parties serve entirely different customer bases with no overlapping commercial presence.

I declare under penalty of perjury that everything I have stated in this document is true and correct.

**Dated:** 30 September 2025

Respectfully submitted,

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*Attorney for Defendant AeroCine Ventures Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was filed using this Court's CM/ECF notification service, which sent notification of such filing to all pro se parties and counsel of record on 30 September 2025.

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